



## **Legislative Bulletin.....March 12, 2003**

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### **H.R. 659 — Hospital Mortgage Insurance Act of 2003 (Ney)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, March 12<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** Under the National Housing Act, the Federal Housing Administration (FHA) has the authority to insure private loans used to finance the modernization and rehabilitation of hospitals. To qualify, hospitals must obtain a certificate of need (CON) from the state, which determines if the hospital meets eligibility requirements. If the state does not have a CON process (24 states do not), it must conduct an independent feasibility study. These studies are often expensive.

H.R. 659 amends the National Housing Act to give the Department of Housing and Urban Development (HUD) authority to establish the means for determining need and feasibility for a hospital project seeking mortgage insurance in states where there is not a CON program. Hospitals would also be required to meet state or local licensure and operation requirements.

**Committee Action:** The bill was considered by the Committee on Financial Services and reported by voice vote on February 13, 2003.

**Cost to Taxpayers:** The Congressional Budget Office estimates that H.R. 659 would increase offsetting collections (a credit against discretionary spending) by \$2 to \$3 million per year.

**Does the Bill Create New Federal Programs or Rules?:** The bill makes changes to the current HUD hospital mortgage program.

**Constitutional Authority:** The Committee on Financial Services, in House Report 108-27, cites Article I, Section 8, Clause 3 (the commerce clause).

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## **H.R. 389—Automatic Defibrillation in Adam's Memory Act (Shimkus)**

**Order of Business:** The resolution will be considered on Wednesday, March 12, 2003, under a motion to suspend the rules and pass the bill.

**Note:** The Defibrillation Program, which would be amended by H.R. 389, was first authorized in the bioterrorism bill (H.R. 3448). The authorization did not appear in either the House-passed or the Senate-passed bill, but apparently was added in the House-Senate conference. The House agreed to the conference report 425-1 on May 22, 2002.

<http://clerkweb.house.gov/cgi-bin/vote.exe?year=2002&rollnumber=189>

**Summary:** H.R. 389 would amend current law to add a provision allowing schools to be eligible for defibrillation demonstration project funding. The underlying law (Public Law 107-188) authorized \$25 million in FY2002 for the Secretary of HHS to award grants to States, political subdivisions of States, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs. H.R. 389 would allow funding to establish an information clearinghouse to increase access to defibrillation in schools.

**Additional Information:** Automatic external defibrillators (AEDs) are used by emergency personnel and health professionals to assist with sudden cardiac arrest.

**Committee Action:** H.Res.122 was referred to the House Committee on Energy and Commerce on January 29, 2003. The resolution was considered by the Committee on the same day and passed by voice vote.

**Cost to Taxpayers:** Under current law, section 312 authorizes the appropriation of \$25 million in 2003 and such sums as may be necessary from 2004 through 2006 for grants to states and tribal organizations to develop and implement public access defibrillation programs. H.R. 389 would create an additional use of the grant money authorized under section 312, but it would not increase the authorization level for grants under that section. Therefore, CBO estimates that the bill would not affect discretionary spending.

**Constitutional Authority:** The Committee (in Report No. 108-13) finds authority in Article I, Section 8, Clause 3 (commerce clause).

**Does the Bill Create New Federal Programs or Rules:** The bill adds another area of eligibility to the current list of programs eligible for federal defibrillation demonstration project funding.

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## **H.R. 342 — Mosquito Abatement for Safety and Health Act (Tauzin)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, March 12<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 342 creates a program at the Centers for Disease Control (CDC) awarding grants to states for the purpose of coordinating mosquito control programs in states and localities. The bill requires preference in awarding grants to be given to areas with higher rates of mosquito-borne diseases or infected mosquitoes.

Grants may only be awarded if the state has developed (or agrees to develop) a plan for coordinating mosquito control programs, consults with political subdivisions who will be a part of the program when developing the plan, agrees to monitor control programs, agrees to make assessment grants to political subdivisions, and agrees to submit a report to the Secretary of Health and Human Services at the end of the grant year describing the activities of the state and an evaluation of their effectiveness.

The assessment grants to political subdivisions are authorized for the purposes of determining the need for mosquito control programs and to develop plans for carrying out such programs. Each grant may not exceed \$10,000.

H.R. 342 also authorizes a grant program (maximum grant of \$100,000) to political subdivisions for the operation of mosquito control programs. Preference must be given to subdivisions with higher rates of mosquito-borne diseases or infected mosquitoes, that demonstrate that they will effectively coordinate with nearby localities, and are located within a state that has received a coordination grant described above. The locality must also provide matching funds of no less than one-third of the total program cost.

For the grant programs described above, H.R. 342 authorizes \$100 million for fiscal year 2003 and such sums for fiscal years 2004 through 2007.

Finally, the bill adds a section to the Public Health Service Act requiring the Director of the National Institute of Environmental Health Sciences at the National Institutes of Health to conduct or support research “to identify or develop methods of controlling the population of insects that transmit to humans diseases that have significant adverse health consequences.”

**Additional Background:** H.R. 342 is very similar to H.R. 4793, considered in the 107<sup>th</sup> Congress and passed by voice vote on October 1, 2002. The Senate did not consider the bill.

**Committee Action:** H.R. 342 was referred to the Committee on Energy and Commerce and passed by voice vote on January 29, 2003.

**Cost to Taxpayers:** The Congressional Budget Office estimates that H.R. 342 will result in outlays of \$649 million over the 2003-2008 period.

**Does the Bill Create New Federal Programs or Rules?:** Yes, the bill creates several new grant programs, as described above.

**Constitutional Authority:** The Committee on Energy and Commerce, in House Report 108-12, cites Article I, Section 8, Clause 3 (the commerce clause).

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## **H.R. 398 — Birth Defects and Developmental Disabilities Prevention Act of 2003 (Ferguson)**

**Order of Business:** The bill will be considered on Wednesday, March 12, 2003, under a motion to suspend the rules and pass the bill.

**Note:** A Manager's Amendment is expected, as part of the motion to suspend, to remove paragraph (4) from the bill. Paragraph (4) would have amended the General Education Provisions Act to allow the CDC to access student educational records to conduct research and collect information on birth defects, disability and health without notifying the student or his or her parents. The Education and Workforce Committee has asserted jurisdiction over this provision and the Manager's Amendment deletes this provision.

**Summary:** H.R. 398 reauthorizes the National Center on Birth Defects and Developmental Disabilities "at such sums as may be necessary" for an additional 5 years FY03-07 (the authorization expired in FY02)

**The bill authorizes two new programs:** one "to conduct research on and to promote the prevention of such defects and disabilities, and secondary health conditions among individuals with disabilities;" and another "to support a National Spina Bifida Program to prevent and reduce suffering" from Spina Bifida. The bill also amends current law to require that the Center carry out programs collecting, analyzing, and making available data not only on birth defects and developmental disabilities, as is current law, but also on "disabilities and health."

The bill eliminates a National Information Clearinghouse on Birth Defects. It reauthorizes a biennial report to Congress and modifies the current reporting requirements by adding developmental disabilities and health status of people with disabilities and requiring the reporting of how these conditions have "affected quality of life." Under H.R. 398, the report also must now contain information on the incidence, prevalence, and health of people with birth defects, disabilities, or developmental disabilities and "recommendations for improving the health and wellness and quality of life of such individuals" as well as a summary of recommendations from all birth defects research conferences sponsored by the CDC.

Upon enactment of H.R. 398, the advisory committees appointed by the National Center for Environmental Health that have birth defects, disabilities, or developmental disabilities expertise shall be transferred to the National Center on Birth Defects and Developmental Disabilities.

The bill changes the allotment formula for grants to State Councils on Developmental Disabilities.

**Cost to Taxpayers:** The National Center on Birth Defects and Developmental Disabilities was last authorized at \$30 million in FY99, \$40 million in FY00 and such sums for FY01-03. H.R. 398 will reauthorize the Center for an additional 5 years at such sums as may be necessary. CBO estimates that implementing H.R. 398 would cost \$29 million in 2004 and \$350 million over the 2004-2008 period, subject to appropriations.

**Committee Action:** H.R. 398 was referred to the House Committee on Energy and Commerce on January 28, 2003. The bill was considered by the Committee the next day and passed by voice vote.

**Constitutional Authority:** The Committee (in report no. 108-14) finds authority in Article I, Section 8, Clause 3 (commerce clause).

**Does the Bill Create New Federal Programs or Rules:** YES. While the bill reauthorizes an expired agency within HHS and modifies some of the agencies current duties, it also establishes two new programs: 1) a program to conduct research on and to promote the prevention of birth defects and disabilities and secondary health conditions among individuals with disabilities; and 2) a program to support a National Spina Bifida Program. The bill also extends a biennial reporting requirement.

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## **H.R. 399— Organ Donation Improvement Act of 2003 (Shimkus)**

**Order of Business:** The bill will be considered on Wednesday, March 12, 2003, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 399 would amend the Public Health Service Act to establish new programs to pay travel expenses for living organ donors and create a block grant program to states to fund “public awareness” organ donation projects. The bill would authorize \$5 million a year from FY04-FY08 (\$25 million total) for the Secretary of HHS to provide grants or contracts to pay for travel and “subsistence expenses” for living people who donate their organs, and \$15 million plus such sums for awareness projects.

To qualify for the donor payments, the donor must reside in a separate state than the intended recipient and the *recipient* of the organ must have an annual income of no more than \$35,000. **There is no cap on the income of the donor who, under H.R. 399, will be the person eligible for federal funds.** A provision in the bill also limits the payment amount to approximately what it would cost if the donor traveled to the transplant center closest to the recipient. H.R. 399 stipulates that donors who receive or “can reasonably be expected” to receive funding under state compensation programs, health insurance, or other benefits programs are ineligible for these federal monies. The bill authorizes the Secretary to make regulations providing for travel and expense payments for donors who, in good faith, travel to the donation location and end up not donating an organ.

The bill also creates a new program, authorized at \$15 million in FY04 and such sums for FY05-08, “to educate the public with respect to organ donation” and for studies and demonstration projects “to provide for an adequate rate of organ donation.” This program may be administered through block grants to the states, which to be eligible must agree to submit annual reports and open their state donor registry up to other states upon request. An annual report to Congress is required from the HHS Secretary and of the funds authorized no more than \$2 million per fiscal year may go toward studies and demonstration projects.

Finally, the bill has a sense of Congress provision that states it is the sense of Congress: “that the Federal Government should carry out programs to educate the public with respect to organ donation, including the need to provide for an adequate rate of such donations.”

**Cost to Taxpayers:** H.R. 399 would authorize \$5 million a year in FY04 through FY08, subject to appropriation, for travel and subsistence expenses for qualifying living individuals who make a donation of their organs. H.R. 399 would also authorize the appropriation of \$15 million in fiscal year 2004, and such sums as may be necessary for FY05-08, for a program to increase public awareness of organ donation and for studies and demonstrations designed to increase the rate of organ donation.

**CBO estimates that implementing H.R. 399 would cost \$6 million in 2004 and a total of \$79 million from 2004 through 2008, without adjusting for inflation, and \$81 million if inflation adjustments are included, subject to appropriation.**

**Committee Action:** H.R. 399 was referred to the House Committee on Energy and Commerce on January 28, 2003. The bill was considered by the Committee the next day and passed by voice vote.

**Constitutional Authority:** The Committee (in report no. 108-15) finds authority in Article I, Section 8, Clause 3 (commerce clause).

**Does the Bill Create New Federal Programs or Rules:** YES. The bill creates two new programs: one funding organ donor travel and other expenses, and another funding public organ donor awareness programs and studies and demonstration projects. The bill requires an annual report to Congress on the awareness program activities

## **H.R. 663 — Patient Safety and Quality Improvement Act (Bilrakis)**

**Order of Business:** The bill is scheduled for consideration on Wednesday, March 12<sup>th</sup>, under a motion to suspend the rules and pass the bill.

**Summary:** The Patient Safety and Quality Improvement Act allows physicians, hospitals, and other health care providers to report medical errors without such information being subject to subpoena, discovery in a civil or administrative proceeding, the Freedom of Information Act, or required for use as evidence in any state or federal civil or administrative proceeding. Employers may not take action against any employee that in good faith has reported a medical error (if they do so, they are subject to a \$20,000 fine). Anyone who violates the confidentiality of patient safety records would be subject to a \$10,000 fine for each violation.

Such information could voluntarily be reported to a patient safety organization, a public or private organization certified by the Secretary of Health and Human Services to collect patient safety information, develop and disseminate information to providers regarding patient safety (including recommendations or best practices), and maintain the confidentiality of identifiable information. The process the Secretary must establish to certify patient safety organizations must include certification by the Secretary or other national or state government organization and reviews of certification no less than every three years. A patient safety organization would have to meet certain criteria as a condition of certification, including:

- Has “appropriately qualified staff;”
- Is not a component of a health insurer or other entity that offers health insurance coverage;
- Within a two-year period, contracts with more than one provider for the purpose of receiving and reviewing patient safety work product; and
- Is independent from any provider it contracts with.

For the purposes of carrying out its certification responsibilities, the bill appropriates to HHS such sums for fiscal years 2004-2008.

The Secretary is also authorized under H.R. 663 to establish and maintain the “National Patient Safety Database,” consisting of nonidentifiable patient safety information. The information in the database would be used to analyze national and regional statistics, including trends and patterns of health care errors. The Secretary may facilitate the direct link of information between health care providers and patient safety organizations and between patient safety organizations and the National Patient Safety Database.

Other items of significance in the legislation are:

- The Secretary of HHS is authorized to provide technical assistance to patient safety organizations and to states with medical error reporting systems;

- The Secretary, no later than 18 months after enactment, must develop voluntary national standards promoting the use of technology systems in health care delivery, including the use of computerized physician orders;
- A new program is established to make grants for the purpose of establishing electronic prescription programs; and
- A new program is established to make grants to pay the costs of acquiring new technology to improve quality of care and reduce medical errors. The grantee must provide matching funds of no less than 50 percent of the total program cost.

For the two new grant programs described above, the bill authorizes \$25 million for fiscal years 2004 and 2005.

**Committee Action:** H.R. 663 was referred to the Committees on Energy and Commerce and reported by voice vote on February 12.

**Cost to Taxpayers:** The Congressional Budget Office estimates the bill will cost \$20 million in 2004 and \$104 million over the 2004-2008 period.

**Does the Bill Create New Federal Programs or Rules?:** Yes. The bill authorizes the establishment of a national patient safety database and several new grant programs, as described above.

**Constitutional Authority:** The Committee on Energy and Commerce, in House Report 108-28, cites Article I, Section 8, Clause 3 (the commerce clause).

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